

Daniel M. Cislo, Esq., No. 125,378
dan@cislo.com
David B. Sandelands, Esq., No. 198,252
dsandelands@cislo.com
Mark D. Nielsen, Esq., No. 210,023
mnielsen@cislo.com
CISLO & THOMAS LLP
1333 2nd Street, Suite 500
Santa Monica, California 90401-4110
Telephone: (310) 451-0647
Telefax: (310) 394-4477

Attorneys for Defendant/Counterclaimant,
KIRBY MORGAN DIVE SYSTEMS, INC.

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

SURFACE SUPPLIED, INC., a California corporation,) CASE NO. CV 13-0575 MMC
Plaintiff,) [Hon. Maxine M. Chesney]
vs.) **[PROPOSED] ORDER OF DISMISSAL**
KIRBY MORGAN DIVE SYSTEMS, INC.,) **PURSUANT TO RULE OF CIVIL**
a California Corporation,) **PROCEDURE 41(a)(2)**
Defendant.)

KIRBY MORGAN DIVE SYSTEMS, INC.,)
a California Corporation,)
Counterclaimant,)
vs.)
SURFACE SUPPLIED, INC., a California corporation; Heliox TECHNOLOGIES, INC., a California corporation; and JASON VAN DER SCHYFF, an individual, and DOES 1-9,)
Counter-Defendants.)

[PROPOSED] ORDER

Plaintiff and Counter-Defendant Surface Supplied, Inc. (“Surface Supplied”), Counter-Defendant Heliox Technologies, Inc. (“Heliox”), Counter-Defendant Jason Van der Schyff (“Van der Schyff”) and Defendant and Counterclaimant Kirby Morgan Dive Systems, Inc. (“Kirby Morgan”) (collectively “the Parties”) have jointly moved this Court for an order of dismissal pursuant to *Rule of Civil Procedure 41(a)(2)*. The Parties request that the Court incorporate the terms of the parties’ settlement agreement into the dismissal order by reference and that the Court retain jurisdiction to enforce the agreement under the authority of *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 381-382, 114 S. Ct. 1673, 128 L. Ed. 2d 391 (1994). The Court finds that the Parties’ settlement agreement is complete; includes a statement that the Court retain jurisdiction to enforce the agreement; and, has been executed by the Parties.

Proof having been made to the satisfaction of the Court that the Motion should be granted, and good cause appearing therefore,

THE COURT HEREBY ORDERS, ADJUDGES AND DECREES that:

(1) Pursuant to *Rule of Civil Procedure 41(a)(2)*, this action is dismissed, in its entirety, with prejudice;

(2) The terms of the Parties' settlement agreement, ~~appended to this Order as to the Declaration of Daniel M. Cislo Exhibit A,~~ are incorporated herein by reference; and

(3) The Court shall retain jurisdiction of this matter to enforce the terms of the settlement agreement.

IT IS SO ORDERED.

Date: March 21 , 2014

Maxine M. Chesney
Hon. Maxine M. Chesney
United States District Judge

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2 Respectfully submitted,
3 CISLO & THOMAS, LLP
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5 By: /s/Daniel M. Cislo
6 Daniel M. Cislo
7 David B. Sandelands
8 Mark D. Nielsen
9 Attorneys for Defendant and Counterclaimant,
10 KIRBY MORGAN DIVE SYSTEMS, INC.
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CISLO & THOMAS LLP
Attorneys at Law
SUITE 500
1333 2nd STREET
SANTA MONICA, CALIFORNIA 90401
TELEPHONE: (310) 451-0647
FACSIMILE: (310) 394-4477